

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CANVA US, INC.,

Plaintiff,

v.

ACCESSIFY, LLC, et al.,

Defendants.

CASE NO. C23-1945JLR

SHOW CAUSE ORDER

Before the court is Defendants Accessify, LLC (“Accessify”) and Ascend IP, LLC’s (“Ascend IP”) (together, “Defendants”) motion to dismiss or, in the alternative, to transfer this case to the Western District of Texas. (Mot. (Dkt. # 20); Reply (Dkt. # 32).) Plaintiff Canva US, Inc. (“Canva US”) opposes the motion. (Resp. (Dkt. # 27).) The court ordered additional briefing in light of Accessify’s patent infringement suit against Canva US and two other Canva entities—Canva, Inc. (a Delaware holding company) and Canva Pty Ltd (an Australian company)—pending in the Western District of Texas. (3/14/24 Order (Dkt. # 35); Pl. Supp. Br. (Dkt. # 37); Def. Supp. Br. (Dkt. # 38).) Having

1 considered the parties' submissions, the relevant portions of the record, and the governing  
2 law, the court finds that this action should be stayed pending the Western District of  
3 Texas's disposition of Canva Pty Ltd's motion to dismiss in the Texas case.

4 The court briefly describes the relevant timeline. On October 23, 2023, Accessify  
5 sued Canva, Inc. and Canva Pty Ltd in the Western District of Texas for patent  
6 infringement. *See generally* Complaint, *Accessify, LLC v. Canva, Inc.*, No.  
7 6:23-cv-00727-DC-DTG (W.D. Tex. Oct. 23, 2023), ECF No. 1. On December 18, 2023,  
8 Canva US sued Defendants in this court for a declaratory judgment of noninfringement  
9 and for violations of Washington's Patent Troll Prevention Act, RCW 19.350 *et seq.*  
10 (Compl. (Dkt. # 1) ¶¶ 58-119.) On March 7, 2024, Accessify amended its complaint in  
11 Texas to add Canva US as a defendant. *See generally* Am. Compl., *Accessify, LLC v.*  
12 *Canva, Inc.*, No. 6:23-cv-00727-DC-DTG (W.D. Tex. Mar. 7, 2024), ECF No. 20. On  
13 March 21, 2024, Canva Pty Ltd and Canva, Inc. filed a still-pending motion to dismiss in  
14 the Texas action for improper service and lack of personal jurisdiction. *See* Mot. to  
15 Dismiss at 1, *Accessify, LLC v. Canva, Inc.*, No. 6:23-cv-00727-DC-DTG (W.D. Tex.  
16 Mar. 21, 2024), ECF No. 25. And on March 29, 2024, Accessify voluntarily dismissed  
17 Canva, Inc. from the Texas case. *See* Notice of Voluntary Dismissal, *Accessify, LLC v.*  
18 *Canva, Inc.*, No. 6:23-cv-00727-DC-DTG (W.D. Tex. Mar. 29, 2024), ECF No. 28.

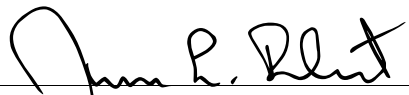
19 In their motion pending before this court, Defendants argue that this action should  
20 be transferred under the first-to-file rule. (Mot. at 19.) The court finds that the Western  
21 District of Texas's ruling on Canva Pty Ltd's motion to dismiss may have an impact on

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1 this analysis. *See generally Mallinckrodt Medical Inc. v. Nycomed Imaging AS*, No.  
2 4:98CV444 ERW, 1998 WL 962203 (E.D. Mo. Nov. 13, 1998).

3 A stay will give the Western District of Texas an opportunity to rule on Canva Pty  
4 Ltd's motion to dismiss. The court therefore ORDERS the parties to show cause why  
5 this matter should not be stayed pending the Western District of Texas's disposition of  
6 Canva Pty Ltd's motion to dismiss. Canva US and Defendants shall each file a response  
7 to this order not exceeding 1,200 words by no later than **April 8, 2024**. Failure to  
8 respond to this order will be construed as a consent to a stay.

9 Dated this 3rd day of April, 2024.

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11 JAMES L. ROBART  
United States District Judge